



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

SEP 04 2003

Pete Turnham, Treasurer  
Joe Turnham for Congress  
PO Box 928  
Auburn, AL 36831

RE: MUR 5328

Dear Mr. Turnham:

On November 1, 2002, the Federal Election Commission notified Joe Turnham for Congress and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on August 25, 2003, found that there is reason to believe Joe Turnham for Congress and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved. If you are interested in expediting the resolution of this matter by pursuing pre-probable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

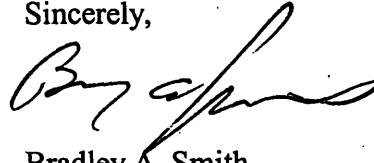
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be

demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Joshua Heller or Thomas Andersen, the attorneys assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith  
Vice Chairman

Enclosures

Designation of Counsel Form  
Factual and Legal Analysis  
Conciliation Agreement

cc: Joseph R. Turnham

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Joe Turnham for Congress  
6 and Pete Turnham, as treasurer

MUR 5328

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8 This matter was generated by a complaint filed with the Federal Election Commission by  
9 Kenneth F. Boehm, Chairman of the National Legal and Policy Center. *See* 2 U.S.C.  
10 § 437g(a)(1).

11 Pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"), an  
12 authorized candidate committee may accept \$5,000 from a multicandidate PAC during each  
13 election. 2 U.S.C. §§ 441a(a)(2)(A), 441a(f). If a committee accepts contributions that exceed  
14 these limits, its treasurer shall either refund the excessive contributions or seek redesignation or  
15 reattribution within sixty days. *See* 11 C.F.R. § 103.3(b)(3).

16 The Act states that for purposes of the limitations set forth in 2 U.S.C. §§ 441a(a)(1) and  
17 441a(a)(2), all contributions made by political committees "established or financed or maintained  
18 or controlled by any . . . person . . . or by any group of . . . persons, shall be considered to have  
19 been made by a single political committee."<sup>1</sup> 2 U.S.C. § 441a(a)(5). Committees established,  
20 financed, maintained or controlled by the same person or group of persons are "affiliated  
21 committees." 11 C.F.R. § 100.5(g). Contributions made to or by such committees shall be  
22 considered to have been made to or by a single committee. *See* 11 C.F.R. §§ 100.5(g) and  
23 110.3(a)(1).

24 PAC to the Future is an unauthorized multicandidate committee that has been registered  
25 with the Commission since March 24, 1999 and qualified for multicandidate committee status on

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<sup>1</sup> Section 441a(a)(5) provides specific exceptions, none of which is relevant here.

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1 September 28, 1999. PAC to the Future's Statement of Organization lists former California  
2 Lieutenant Governor Leo McCarthy as its treasurer and states that it is not affiliated with any  
3 other committee. Team Majority is an unauthorized multicandidate committee that initially  
4 registered with the Commission under the name "Team Pelosi" on April 1, 2002. The committee  
5 amended its name to "Team Majority" on July 24, 2002, in response to a letter from the  
6 Commission reminding the committee that an unauthorized committee's name may not include  
7 the name of a candidate. *See* 2 U.S.C. § 432(e)(4). Team Majority's Statement of Organization  
8 also lists Leo McCarthy as its treasurer, and states that it is not affiliated with any other  
9 committee.

10 In alleging that Representative Pelosi established two PACs which "had both the intent  
11 and effect of circumventing the [Act's] contribution limits . . .," the complaint relied on an  
12 alleged statement to the press by Leo McCarthy, treasurer of both PACs, that the "main reason  
13 for the creation of the second PAC, frankly, was to give twice as much [*sic*] hard dollars."<sup>2</sup> The  
14 complaint identified the campaign committee of Joe Turnham as having accepted excessive  
15 contributions as a result of the two PACs' affiliation. Joe Turnham for Congress did not file a  
16 response to the complaint.

17 A review of PAC to the Future's and Team Majority's disclosure reports reveals that the  
18 two PACs received contributions from many of the same contributors and made contributions to  
19 many of the same committees. PAC to the Future and Team Majority share a common treasurer  
20 who reportedly admitted to the press that the primary reason for forming Team Majority was to  
21 "give twice as much [*sic*] hard dollars." *See supra* note 2. The Commission is not aware of any

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<sup>2</sup> *See* Ethan Wallison, *Pelosi PAC Stirs Questions*, ROLL CALL (Oct. 24, 2002) available at <http://www.rollcall.com/pages/news/00/2002/10/news1024b.html>.

1 public statements by the treasurer or Team Majority contesting or disavowing this press  
2 statement.

3 Following press reports questioning whether the two PACs were affiliated, *see supra*  
4 note 2, Team Majority (based on information in its disclosure reports) appears to have stopped  
5 making or accepting contributions. Team Majority also received refunds from some candidate  
6 committees to which it made contributions that, when aggregated with those of PAC to the  
7 Future, exceeded the Act's limits for a single committee. In addition, Team Majority refunded  
8 contributions to individuals who contributed in excess of \$5,000, when aggregated, to the two  
9 PACs. Accordingly, it appears that PAC to the Future and Team Majority are affiliated with one  
10 another and, as a result, all contributions made by these committees should be considered to have  
11 been made by a single committee.

12 PAC to the Future made a \$5,000 contribution to Joe Turnham for Congress on June 25,  
13 2002, and Team Majority made a \$4,000 contribution to Joe Turnham for Congress on  
14 September 16, 2002 and a \$1,000 contribution on October 15, 2002. Because the two PACs  
15 were limited to making a \$5,000 contribution to any candidate committee, the contributions  
16 made by PAC to the Future and Team Majority, when aggregated, constituted excessive  
17 contributions to Joe Turnham for Congress. Disclosure reports filed with the Commission do not  
18 show that these excessive contributions were refunded, redesignated or reattributed within sixty  
19 days. *See* 11 C.F.R. § 103.3(b)(3).

20 Therefore, there is reason to believe that Joe Turnham for Congress and Pete Turnham, as  
21 treasurer, violated 2 U.S.C. § 441a(f).